

REMARKS

The present amendment to the claims is made to cancel claims duplicated from the parent patent application Serial No. 10/189,675 and to more clearly define the present invention.

In an Office Action for the parent application, the Examiner rejected claims 13-15 under 35 USC 103(a) as being unpatentable over U.S. 6,436,635 to Toth, et al. in view of U.S. 6,540,391 to Braithwaite.

In this rejection, the Examiner has stated in regards to claim 13 that Toth, et al. teaches an instrument for providing illumination for surgery having a hand held light source, a power source, a control switch and at least one fiber optic having a proximal end and a distal end.

The Examiner acknowledges that Toth, et al. does not teach that the light source is a lighting emitting diode (LED) and therefore reaches to Braithwaite for a disclosure of a light emitting diode as a light source. The Examiner then concludes that it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute Braithwaite's light emitting diode with Toth's light source since it is known in the art that a light emitting diode is a light source for the light guide or the light piper as taught by Braithwaite.

The Applicants respectfully traverse the Examiner's rejection and calls to the attention of the Examiner that claim 13 does not include any fiber optics, but rather is

directed to a needle having an LED disposed at a distal end thereof along with a lumen through the needle for communicating an electrical connection between the LED and a power source.

Clearly, this structure is not taught or suggested by either of the references cited by the Examiner.

In view of this lack of teaching or suggestion in either reference, the Applicants submit that the Examiner has not made a prima facie case of obviousness for the rejection of claims 13-15 under 35 USC 103(a).

With particular reference to claims 14 and 15, the Examiner has stated that Toth, et al. teaches a lens having an hourglass shape. However, there is no disclosure or teaching of a lens disposed at a distal end of the needle for focusing light emitted from the LED. Rather, the light source in Toth, et al. is disposed within a proximal handle, Section 12, which also includes the light source 22.

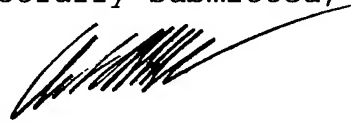
In the case at hand, the light source, or LED, is disposed at a distal end of a needle interconnected through a needle lumen to a power source. Clearly, this structure in accordance with the present invention is totally beyond any structure taught, disclosed, or suggested by the Toth, et al. reference.

Accordingly, the Applicants submit that the Examiner has not made a prima facie case for the rejection of claims

14 and 15 under 35 USC 103(a). Reconsideration and allowance are respectfully requested.

In view of the arguments hereinabove set forth in amendment to the claims, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectively requested.

Respectfully submitted,



Walter A. Hackler, Reg. No. 27,792  
Attorney of Record  
2372 S.E. Bristol, Suite B  
Newport Beach, California 92660  
Tel: (949) 851-5010  
Fax: (949) 752-1925